



August 31, 1999

Mr. David A. Smith
City Attorney
City of Victoria, Legal Department
P.O. Box 1758
Victoria, Texas 77902-1758

OR99-2459

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128623.

The City of Victoria (the "city") received a request for incident report number 9908269. You contend that the report is excepted from disclosure under section 552.108 of the Government Code. However, we find that the report is excepted from disclosure pursuant to section 552.101 of the Government Code as information deemed confidential by law.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Accordingly, section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of that statute reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

¹The Attorney General will raise section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Section 51.02(2)(A) defines "child" as a person who is ten years of age or older and under seventeen years of age.

The report at issue is a law enforcement record concerning juvenile conduct that occurred after September 1, 1997. Thus, the report is confidential pursuant to section 58.007(c) of the Family Code. Accordingly, the city must withhold the report from disclosure under section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script that reads "E. Joanna Fitzgerald".

E. Joanna Fitzgerald
Assistant Attorney General
Open Records Division

EJF/nc

Ref: ID# 128623

Encl: Submitted documents

cc: Mr. Dave Ussery
4810 Jean Street
Corpus Christi, Texas 78411
(w/o enclosures)